#### **PATENT**

#### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT

Kimle, et al.

SERIAL NO

09/335,648

**FILED** 

June 18, 1999

TITLE

METHOD OF ELECTRONICALLY INITIATING AND MANAGING

AGRICULTURAL PRODUCTION CONTRACTS

Grp./A.U.

2164

Examiner

Kyle, C.

Conf. No.

6709

Docket No.

P03566US0

# THIRD SUPPLEMENTAL DECLARATION OF PRIOR INVENTION IN THE UNITED STATES OR IN A NAFTA OR WTO MEMBER COUNTRY TO OVERCOME CITED PATENT OR PUBLICATION

(37 CFR 1.131)

Assistant Commissioner for Patents Washington, D.C. 20231

#### A. PURPOSE OF DECLARATION

- 1. This declaration is to supplement the August 27, 2001 Declaration filed and of record in this application.
- The persons making this Declaration are inventors Kevin L. Kimle, David R.
   Krog, Alan G. Schmitz and Reynold Harder, and E-Markets, Inc., the party in interest, by its President and Chief Operating Officer, Scott Cavey.

#### B. FACTS AND DOCUMENTARY EVIDENCE

The following table supplements the previous showing of Applicants' diligence relative to the invention of this application, by setting forth additional specific events that occurred in the development of the invention from the fall of 1996 to the summer of 1997. These events all relate to the efforts of Applicants and the

owner of the present application to move forward to reduce the invention to practice. Documents corroborating the events are attached to this declaration at the indicated Exhibits

Date	Meeting	Receipt	Exh./Pg.
October 1, 1996	Kilme and Krog met with Professor Kendrick of University of Nebraska. Meeting in Lincoln, NE. Discussed our ideas and business plan. After meeting went to Lazlo's Brewery & Grill in Lincoln. That evening we met Charlie Trauger in Omaha. Stayed in Omaha that night at Super 8. Next day drove to Gothenburg, NE to meet with Scott Friedlund of Frito-Lay.	Calendar, Omaha Motel Receipt, Meal Receipt	F1, F2, F3
October 2, 1996	Krog and Kimle met with Scott Friedlund of Frito-Lay in Gothenburg, NE. Discussed Frito-Lay corn sourcing and contracting needs and our E- Markets ideas. Took Scott to eat local restaurant.	Motel Receipt	F3
December 3, 1996	Kimle and Krog met with Sue Crum and Joe Lebeda of Pioneer. Met at Pioneer office in West Des Moines (Waterford Building conference Room #3).  Discussed our ideas for grain sourcing and contracting. Meeting lasted nearly three hours.	Calendar, Lunch w/DuPont Receipt	G1
December 3, 1996	Kimle and Korg met with Dan Hammes and Tom Adler of DuPont at Applebee's restaurant in West Des Moines. Described E-Markets and our grain sourcing and contracting solutions. Interest was high and it was decided to have another meeting that included more DuPont folks including Dick Reasons, head of DuPont Quality Grains.	Lunch Receipt	G1
February 6, 1997	Kimle, Harder, Ringlee, and Korg met with group of DuPont Quality Grain folks including Hammes, Adler, Reasons, and others at the DQG office	Appointment book	Н1

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	in Urbandale, IA. Talked about E-Markers, our solutions, and showed a prototype application for contracting their identity-preserved products.  Followed up meeting with a proposal to DuPont on February 20.		
February 17, 1997	Discussions with Stine Seed	Calendar	H2
March 5, 1997	Harvest States meeting w/Jim Tibbetts	Calendar	I1 .
March 6, 1997	Kimle, Harder, and Krog meeting with DQG at DuPont office in Urbandale to discuss proposal.	Calendar	I1
March 31, 1997	Meet w/Ed McMillan ABG business planning	Calendar and meal receipt	I2-I3
April 4, 1997	Project proposal meeting with DuPont at Urbandale office.	Calendar	I2
April 11, 1997	Meeting at DuPont Urbandale office with Dan Hammes to discuss project proposal.	Calendar	J1
April 21, 1997	Meeting with DQG Dan Dyer to discuss system	Calendar/mtg notes	J2, J3
May 6, 1997	Project meeting at DuPont Urbandale office with Dan Dyer	Calendar and receipt	K1, K2
May 13, 1997	Project meeting about Continental Grain w/Dale Jackson, Chris Ludwig, and Terry Rooney in Urbandale.	Calendar	K3
May 13, 1997	Project meeting with Dave Stamp and Doug Krog of Croplan Genetics at E-Markets office in Ames.	Calendar	К3
May 13, 1997	Project meeting with Tom Adler of DQG in E-Markets Ames office.	Calendar	K3
May 19, 1997	Project meeting with Randy Osterbur in Quincy, IL.	Hotel and Meal receipt and Calendar	K4, K5, K6
May 20, 1997	Project meeting with Bill Wyffels, Bonnie Bell, Robert O'Rourke and others of Wyffels Hybrids at the Wyffels office in Atkinson, IL.	Calendar	K4
June 10, 1997	Project meeting with Tom Adler and Pat Hiliard of DQG at DuPont office in Urbandale, IA	Calendar	L1
June 19, 1997	Meeting with Blue Valley Co-op, John Malin	Meal Receipt	L2
June 23,	Project meeting with Tom Adler and Pat	Calendar	L3

6.

1997	Hilliard of DQG.		
June 26, 1997	Meeting with DQG folks and 13 DuPont CPCs at DuPont Urbandale office to demonstrate on-line contracting functionality.	Calendar	L3

#### C. TIME OF PRESENTATION OF THE DECLARATION

4. This declaration is submitted after final rejection.

#### D. DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Tile 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

#### F. SIGNATURE(S)

Inventor(s)

Full name of first inventor Kevin Kimle

Inventor's Signature 

Date 2/7/62 Country of Citizenship 

Residence

Post Office Address 

3222 Lettie 54.

Aws TA 50014

Signature of Person Signing Seath Car
Title of Person Signing President and COO
Date 2-7-01
Name of Assignee Scott Cavey
Post Office Address 1666 Golden Agen Dr Sute 108
Amies TA 50014

Attachments to Declaration: Exhibits F-L

### **EXHIBIL E**

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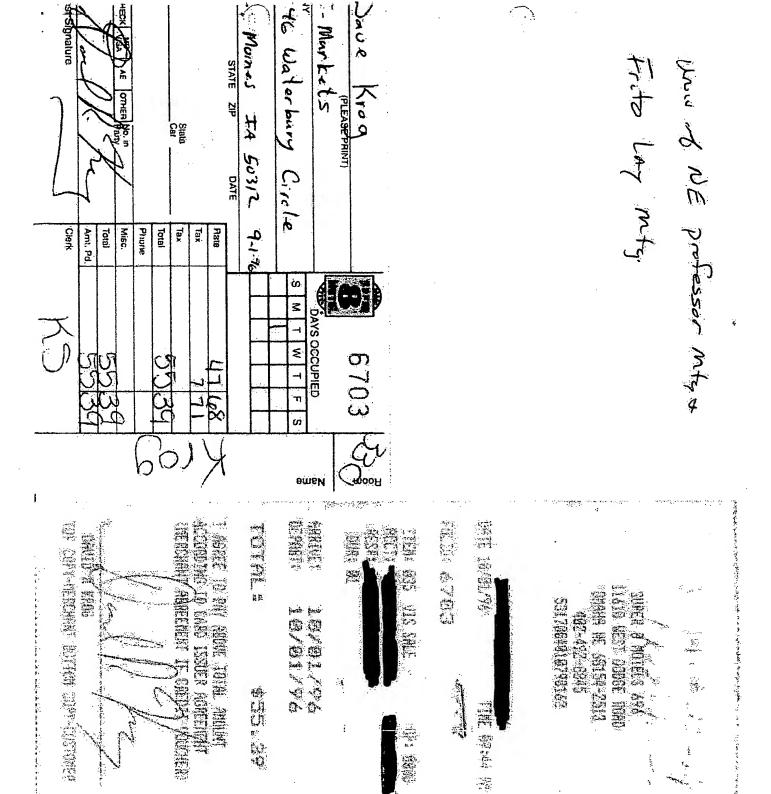
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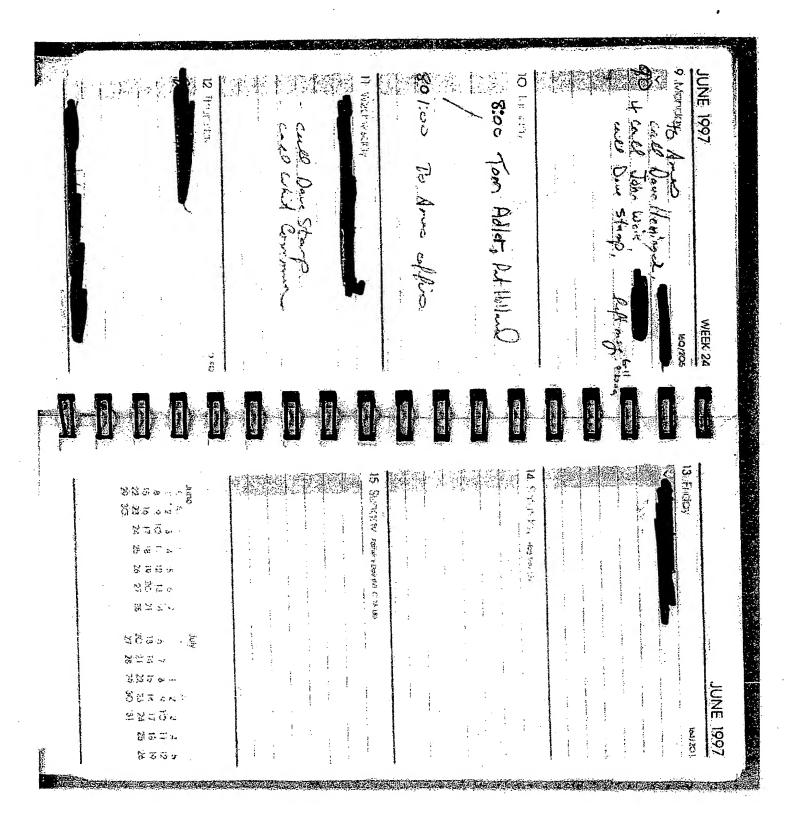
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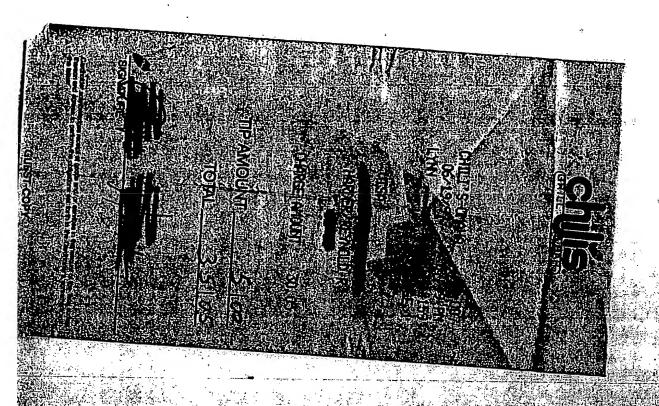
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